

2024-55876 / Court: 125

CAUSE NO. _____

NICOLAS HEFT
Plaintiff,

VS.

MINERVA MEDICAL, PLLC and
LUCAS BRANE
Defendants.

§ IN THE DISTRICT COURT OF
§
§ HARRIS COUNTY, TEXAS
§
§ JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION AND
REQUEST FOR EXPEDITED JUDICIAL DISSOLUTION**

TO THE HONORABLE COURT:

Plaintiff Nicolas Heft, M. D. ("Dr. Heft" or "Plaintiff") file this Original Petition and Request for Expedited Judicial Dissolution against Defendant Minerva Medical, PLLC and real party in interest Defendant Lucas Brane and would respectfully show as follows:

I.

DISCOVERY CONTROL PLAN

1. Plaintiff intends to conduct discovery under Discovery Control Plan Level 2. *See* TEX. R. CIV. P. 190.3.

II.

PARTIES

2. Plaintiff Nicolas Heft, M.D. ("Dr. Heft" or "Heft") is a resident of the State of Texas and currently resides at 6414 Inway Drive, Spring, Texas 77389.

3. Defendant Dr. Lucas Brane ("Dr. Brane" or "Brane") is an individual and a resident of the State of Texas and may be served by personal service at 11910 Maybrook Court, Pearland, Brazoria County, Texas 77584 or wherever he may be found. **Citation is requested at this time.**

4. Defendant Minerva Medical, PLLC (“Minerva”) is a domestic Professional LLC registered to do business in the State of Texas and may be served through its registered agent, United States Corporation Agents, Inc., 9900 Spectrum Drive, Austin, Texas 78717. **Citation is requested at this time.**

III.

VENUE AND JURISDICTION AND CLAIMS FOR RELIEF

5. Venue is proper in Harris County, Texas as Defendant Minerva Medical, PLLC has its principal office in Harris County. TEX. CIV. PRAC. & REM. CODE § 15.002(a)(3). This Court has jurisdiction over each of the parties and jurisdiction to grant all relief requested by Plaintiff because the amount in controversy is within the jurisdictional limits of this Court.

6. Pursuant to Texas Rule of Civil Procedure Rule 47, Plaintiff seeks non-monetary relief in the form of a judicial declaration of dissolution.

IV.

BACKGROUND

7. Minerva Medical, PLLC (“Minerva” or “Minerva Medical”) is an EMS staffing company providing 24/7 online and offline medical direction and EMS and paramedic staffing and related services to SpaceX’s Starbase location in Boca Chica, Cameron County, Texas. Minerva Medical was formed in October 2023, began operating on January 1, 2024 and is owned 50/50 by Plaintiff Dr. Nicolas Heft and Defendant Dr. Lucas Brane. Defendant Brane is a party to this lawsuit as he is a real party in interest and is opposed to the relief sought herein.

8. Minerva currently employs 21 independent contractors and critically, Minerva’s sole source of revenue derives from its current contract with SpaceX. The term of the SpaceX contract expires on December 31, 2024 and there is no right of renewal or otherwise an automatic renewal of this contract.

9. Minerva is governed by a written company agreement (the “Company Agreement”)¹ which effectively dictates that no action can be taken on behalf of Minerva unless Plaintiff and Defendant Brane both agree – **which they do not.**

10. First, Paragraph 2.6 of the Agreement dictates that, **unless expressly provided in the Agreement, no Member, acting alone, has any authority to undertake any obligation, debt, or responsibility or otherwise act on behalf of the Company.**

2.6 Limited Liability; No Authority. A Member will not be bound by, or be personally liable for, the expenses, liabilities, debts, contracts, or obligations of the Company, except as otherwise provided in this Agreement or as required by the Texas Business Organizations Code. Unless expressly provided in this Agreement, no Member, acting alone, has any authority to undertake or assume any obligation, debt, or responsibility, or otherwise act on behalf of, the Company or any other Member.

11. Paragraph 4.1(B) requires all activities or transactions must be approved by a vote of the majority of the Members. Without such approval, “no Members acting alone may bind the Company to any agreement with or obligation to any third party.”

B. Approval and Action. Unless greater or other authorization is required pursuant to this Agreement or under the Texas Business Organizations Code for the Company to engage in an activity or transaction, all activities or transactions must be approved by a vote of the majority of the Members present at a meeting in which a quorum is present, which will be a majority of the Members entitled to vote on the action, to constitute the act of the Company or serve to bind the Company. With such approval, the signature of any Members authorized to sign on behalf of the Company is sufficient to bind the Company with respect to the matter or matters so approved. Without such approval, no Members acting alone may bind the Company to any agreement with or obligation to any third party or represent or claim to have the ability to so bind the Company.]

12. The list of disagreements between the two co-owners is endless: the Parties cannot agree on employee and independent contractor hiring, scheduling, SpaceX contract renewals, SpaceX contract terms, or SpaceX bidding.

¹ Ex. 1

13. The Parties have no written agreement on the Member's compensation and cannot agree on how funds are to be distributed on a monthly basis or reinvested into the Company.

14. The Parties cannot agree on how to amend the Company Agreement to allocate control or include a tie-break provision.

15. However, the Company Agreement **does** contemplate judicial dissolution:

ARTICLE 8: WINDING UP

8.1 Events Requirement Winding Up. The Company will be dissolved upon the first to occur of the following events:

- (i) The vote of the Members holding at least a majority of the Voting Interest of the Company to wind up the Company;
- (ii) Entry of a decree of judicial order to wind up the Company under Chapter 11 of the Texas Business Organizations Code;

16. Further, the Company currently has no debts, no known liabilities to third parties, no contracts which would be in breach in the event of dissolution and no contracts with terms beyond December 31, 2024.

17. Lastly, Defendant Brane has already threatened to demolish the company and has confirmed his wish to run the current contract out through the end of the year and to dissolve the Company. Dr. Heft originally refused to allow Defendant Brane to destroy this company, but Defendant Brane's refusal to agree to reasonable buyout terms has forced Plaintiff to dissolve this deadlocked company so that the two partners may become former partners. The purpose of Minerva has been frustrated by the deadlock.

DEFENDANT BRANE'S DESIRE TO DEMOLISH MINERVA

18. Due to personal and political ideological differences – namely Dr. Heft's support of Donald Trump for President, Defendant Brane communicated he intended to “dynamite this whole endeavor and ride its flaming corpse into the ground” for this “controlled demolition.”

I would rather dynamite this whole endeavor and ride its flaming corpse into the ground than work with someone

This will be a nice and neat controlled demolition. I will, of course, uphold my end

19. Defendant Brane further threatened to unilaterally sell his membership interest to a third-party:

Seriously man, if you are going to do this. I will call bobrow right fucking now and talk about handing control of my half of the company to him. Then you can hash this out with him as the co-owner. Your choice.

20. Defendant Brane cancelled a uniform purchase order that he had agreed to only the week before and Defendant Brane has also refused to enter into new contracts:

Just so we are perfectly clear, Minerva is not entering into any new contracts or hiring anyone else until I know I can trust the other person involved. Period.

21. Defendant Brane has further threatened to withdraw bids for additional space-medicine related service for SpaceX in California, Florida and Texas;

If you are holding firm on this refusal, then I'll be contacting Trevor in the morning to withdraw the bid, as well as withdraw the bid from Bastrop. I will finish out the time

22. In addition to being a 50/50 owner of Minerva, Defendant Brane is also denoted and designated as a managing member along with Plaintiff Heft.

23. Due to Defendant Brane's acts and the deadlock between the two 50/50 owners of Minerva with no clause in the Company Agreement to resolve the same, Plaintiff Nicolas Heft has no choice but to seek judicial winding up and termination of Minerva PLLC, to take effect on December 31, 2024 and would respectfully show as follows:

V.

**CAUSE OF ACTION: WINDING UP AND
DISSOLUTION OF MINERVA MEDICAL, PLLC**

24. All previous paragraphs are incorporated by reference herein.

25. Plaintiff Nicolas Heft seeks the involuntary winding up and termination of Minerva Medical, PLLC pursuant to § 11.314 of the Texas Business Organizations Code.

26. Tex. Bus. Org. Code § 11.314 empowers a district court in the county in which the registered office or principal place of a limited liability company is located order the winding up and termination of the limited liability company on application by an owner of the limited liability company if the court determines that:

- a. The economic purpose of the entity is likely to be unreasonably frustrated;
- b. Another owner has engaged in conduct relating to the entity's business that makes it not reasonably practicable to carry on the business with that owner; or
- c. It is not reasonably practicable to carry on the entity's business in conformity with its governing documents.

27. Minerva is owned 50/50 by Plaintiff and Defendant Brane and governed by a Company Agreement that is silent on right of control or how to break the current and continued deadlock and/or disagreement between the two co-owners.

28. The most common basis for dissolution of an LLC under the “reasonable practicability” standard is when the members or managers are deadlocked.² “[A] deadlocked management board is a quintessential example of a situation justifying a judicial dissolution.”³ Under Texas law, a deadlock will occur in an LLC when there are an equal number of managers (or members in a member-managed company) and the company agreement does not provide for weighted voting or some tie-breaking mechanism. Unless otherwise provided in the Company Agreement, “[e]ach governing person, member, or committee member of a limited liability company has an equal vote at a meeting of the governing authority, members, or committee of the company, as appropriate.” Tex. Bus. Org. Code § 101.354.

29. **No Economic Purpose.** Plaintiff and Defendant Brane cannot and will not agree to extend the current SpaceX contract or enter into any new contracts beyond 2024. This effectively results in a company with no contracts, no source of revenue in 2025 and further no ability under the Company Agreement to enter into any new contracts as the parties refuse to agree on the same, or terms of the same, or which roles/responsibilities each partner would have. Thus, the sole economic purpose of Minerva Medical is unreasonably frustrated and would continue to do so, requiring dissolution under § 11.314(a).

² *E.g., Hill v. Hill*, 460 S.W.3d 751, 758 (Tex. App.—Dallas 2015, pet. denied) (“Hill Jr. and the receiver presented summary judgment evidence that Hill Jr. and Hill III were each 50% owners of the Company, but could not agree on the manner in which the Company would conduct business. The Company’s organizational documents required a majority of the members to agree to conduct business.”).

³ *Vila v. BVWebTies LLC*, 2010 WL 3866098, at *7 (Del. Ch. 2010). See also *Fisk Ventures, LLC v. Segal*, 2009 WL 73957, at *4 (Del. Ch. 2009), aff’d, 984 A.2d 124 (Del. 2009) (“If a board deadlock prevents the limited liability company from operating or from furthering its stated business purpose, it is not reasonably practicable for the company to carry on its business.”); *Kirksey v. Grohmann*, 754 N.W.2d 825, 831 (S.D. 2008) (dissolution appropriate where “sisters formed their company contemplating equal ownership and management, yet only an impenetrable deadlock prevails”); *Haley v. Talcott*, 864 A.2d 86, 88 (Del. Ch. 2004) (“it is not reasonably practicable for the LLC to carry on business in conformity with a limited liability company agreement (the ‘LLC Agreement’) that calls for the LLC to be governed by its two members, when those members are in deadlock.”).

30. Brane's Acts Make It Impractical To Continue Running The Business. Defendant's Brane's acts and threats referenced above make it impractical for Plaintiff Heft and Defendant Brane to continue running the business, and thus dissolution is required under § 11.314(b).

31. Minerva Cannot Continue To Operate In Conformity With Its Governing Documents. As referenced above, the Parties are in a deadlock on how to operate the business, now and into the future, and there are no provisions in the Company Agreement that dictate control or how to break any ties. Given the expiration of the sole revenue-producing contract at the end of 2024, the only reasonable option is dissolution so that these two partners may each compete, fairly, for the rights to any potential contracts in 2025.

VI.

CONDITIONS PRECEDENT

32. All conditions precedent necessary for Plaintiff's recovery have occurred or have been performed.

PRAYER

33. Accordingly, Plaintiff prays that Defendants be cited to appear and answer, and upon final trial, Plaintiff be awarded an order directing the winding up and judicial dissolution of Minerva Medical, PLLC and any and all further relief to which Plaintiff may be justly entitled.

Respectfully submitted,

**CHAMBERLAIN, HRDLICKA, WHITE,
WILLIAMS & AUGHTRY, P.C.**

By: /s/ R. Kyle Hawes

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**ATTORNEYS FOR PLAINTIFF
NICOLAS HEFT**

31762451.v1

Company Agreement

Minerva Medical, PLLC,
a Texas Professional Limited Liability Company

THIS COMPANY AGREEMENT of Minerva Medical, PLLC (the "Company") is entered into as of the date set forth on the signature page of this Agreement by each of the Members listed on Exhibit A of this Agreement.

A. The Members have formed the Company as a Texas professional limited liability company under the Texas Business Organizations Code for the purpose of providing: Medical practice The Members hereby adopt and approve the Certificate of Formation of the Company filed with the Texas Secretary of State.

B. The Members enter into this Agreement to provide for the governance of the Company and the conduct of its business, and to specify their relative rights and obligations.

C. Professional services for which the Company was organized may only be rendered through its Members and professional employees who are licensed or otherwise legally authorized to render such professional service within the state of Texas .

ARTICLE 1: DEFINITIONS

Capitalized terms used in this Agreement have the meanings specified in this Article 1 or elsewhere in this Agreement and if not so specified, have the meanings set forth in the Texas Business Organizations Code.

"Agreement" means this Company Agreement of the Company, as may be amended from time to time.

"Capital Account" means, with respect to any Member, an account consisting of such Member's Capital Contribution, (1) increased by such Member's allocated share of income and gain, (2) decreased by such Member's share of losses and deductions, (3) decreased by any distributions made by the Company to such Member, and (4) otherwise adjusted as required in accordance with applicable tax laws.

"Capital Contribution" means, with respect to any Member, the total value of (1) cash and the fair market value of property other than cash and (2) services that are contributed and/or agreed to be contributed to the Company by such Member, as listed on Exhibit A, as may be updated from time to time according to the terms of this Agreement.

"Economic Interest" shall mean the proprietary interest of any Economic-Only Interest Owner in the capital, income, losses, credits, and other economic rights and

EXHIBIT

interests of a limited liability company, including the right of the owner of the interest to receive distributions from the limited liability company.

An "Economic-Only Interest Owner" shall have an Economic Interest as defined in this Agreement but shall not be a Member or have a Membership Interest. This Company Agreement does not contemplate any Economic-Only Interest Owners, except perhaps as a result of a transfer of certain interests in the Company (see Article 7).

"Exhibit" means a document attached to this Agreement labeled as "Exhibit A," "Exhibit B," and so forth, as such document may be amended, updated, or replaced from time to time according to the terms of this Agreement.

"Member" means each Person who acquires Membership Interest pursuant to this Agreement or who has his/her Membership Interest recognized by this Agreement. The Members are listed on Exhibit A, as may be updated from time to time according to the terms of this Agreement. Each Member has the rights and obligations specified in this Agreement.

"Membership Interest" means the entire ownership interest of a Member in the Company at any particular time, including the right to any and all benefits to which a Member may be entitled as provided in this Agreement and under the Texas Business Organizations Code, together with the obligations of the Member to comply with all of the terms and provisions of this Agreement.

"Ownership Interest" means the Percentage Interest or Units, as applicable, based on the manner in which relative ownership of the Company is divided.

"Percentage Interest" means the percentage of ownership in the Company that, with respect to each Member, entitles the Member to a Membership Interest and is expressed as either:

A. If ownership in the Company is expressed in terms of percentage, the percentage set forth opposite the name of each Member on Exhibit A, as may be adjusted from time to time pursuant to this Agreement; or

B. If ownership in the Company is expressed in Units, the ratio, expressed as a percentage, of:

- (1) the number of Units owned by the Member (expressed as "MU" in the equation below) divided by
- (2) the total number of Units owned by all of the Members of the Company (expressed as "TU" in the equation below).

$$\text{Percentage Interest} = \frac{\text{MU}}{\text{TU}}$$

"Person" means an individual (natural person), partnership, limited partnership, trust, estate, association, corporation, limited liability company, or other entity, whether domestic or foreign.

"Professional Individual" means an individual who is licensed or otherwise authorized to render the same professional service as the Company, either within the state of Texas or in any other jurisdiction.

"Professional Entity" means a Person (other than an individual) whether organized for profit or not, including corporations organized under the Texas Non-Profit Corporation Act and unincorporated associations governed by the Texas Uniform Unincorporated Nonprofit Association Act, that renders the same professional service as the Company only through partners, members, shareholders, managers, directors, associates, officers, employees, or agents who are Professional Individuals or other Professional Entities.

"Units" mean, if ownership in the Company is expressed in Units, units of ownership in the Company, that, with respect to each Member, entitles the Member to a Membership Interest which, if applicable, is expressed as the number of Units set forth opposite the name of each Member on Exhibit A, as may be adjusted from time to time pursuant to this Agreement.

ARTICLE 2: CAPITAL CONTRIBUTIONS, ADDITIONAL MEMBERS, CAPITAL ACCOUNTS AND LIMITED LIABILITY

2.1 Initial Capital Contributions. The names of all Members and each of their respective addresses, initial Capital Contributions, and Ownership Interests must be set forth on Exhibit A. Each Member has made or agrees to make the initial Capital Contribution set forth next to such Member's name on Exhibit A to become a Member of the Company.

2.2 Subsequent Capital Contributions. Members are not obligated to make additional Capital Contributions unless unanimously agreed by all the Members. If subsequent Capital Contributions are unanimously agreed by all the Members in a consent in writing, the Members may make such additional Capital Contributions on a pro rata basis in accordance with each Member's respective Percentage Interest or as otherwise unanimously agreed by the Members.

2.3 Additional Members.

A. With the exception of a transfer of interest (1) governed by Article 7 of this Agreement or (2) otherwise expressly authorized by this Agreement, additional Persons may become Members of the Company and be issued additional Ownership Interests only if approved by and on terms determined by a unanimous written agreement signed by all of the existing Members.

B. Before a Person may be admitted as a Member of the Company, that Person must sign and deliver to the Company the documents and instruments, in the form and containing the information required by the Company, that the Members deem necessary or desirable. Membership Interests of new Members will be allocated according to the terms of this Agreement.

2.4 **Capital Accounts.** Individual Capital Accounts must be maintained for each Member, unless (a) there is only one Member of the Company and (b) the Company is exempt according to applicable tax laws. Capital Accounts must be maintained in accordance with all applicable tax laws.

2.5 **Interest.** No interest will be paid by the Company or otherwise on Capital Contributions or on the balance of a Member's Capital Account.

2.6 **Limited Liability; No Authority.** A Member will not be bound by, or be personally liable for, the expenses, liabilities, debts, contracts, or obligations of the Company, except as otherwise provided in this Agreement or as required by the Texas Business Organizations Code. Unless expressly provided in this Agreement, no Member, acting alone, has any authority to undertake or assume any obligation, debt, or responsibility, or otherwise act on behalf of, the Company or any other Member.

ARTICLE 3: ALLOCATIONS AND DISTRIBUTIONS

3.1 **Allocations.** Unless otherwise agreed to by the unanimous consent of the Members any income, gain, loss, deduction, or credit of the Company will be allocated for accounting and tax purposes on a pro rata basis in proportion to the respective Percentage Interest held by each Member and in compliance with applicable tax laws.

3.2 **Distributions.** The Company will have the right to make distributions of cash and property to the Members on a pro rata basis in proportion to the respective Percentage Interest held by each Member. The timing and amount of distributions will be determined by the Members in accordance with the Texas Business Organizations Code.

3.3 **Limitations on Distributions.** The Company must not make a distribution to a Member if, after giving effect to the distribution:

A. The Company would be unable to pay its debts as they become due in the usual course of business; or

B. The fair value of the Company's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the Company were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of Members, if any, whose preferential rights are superior to those of the Members receiving the distribution.

ARTICLE 4: MANAGEMENT

4.1 Management.

A. Generally. Subject to the terms of this Agreement and the Texas Business Organizations Code, the business and affairs of the Company will be managed by the Members.

B. Approval and Action. Unless greater or other authorization is required pursuant to this Agreement or under the Texas Business Organizations Code for the Company to engage in an activity or transaction, all activities or transactions must be approved by a vote of the majority of the Members present at a meeting in which a quorum is present, which will be a majority of the Members entitled to vote on the action, to constitute the act of the Company or serve to bind the Company. With such approval, the signature of any Members authorized to sign on behalf of the Company is sufficient to bind the Company with respect to the matter or matters so approved. Without such approval, no Members acting alone may bind the Company to any agreement with or obligation to any third party or represent or claim to have the ability to so bind the Company.

C. Certain Decisions Requiring Greater Authorization. Notwithstanding clause B above, the following matters require unanimous approval of the Members in a consent in writing to constitute an act of the Company:

- (i) A material change in the purposes or the nature of the Company's business;
- (ii) A change in the status of the Company from one in which management is reserved to the Members to one in which management is vested in one or more Managers or vice versa;
- (iii) With the exception of a transfer of interest governed by Article 7 of this Agreement, the admission of a new Member or a change in any Member's Membership Interest, Ownership Interest, Percentage Interest, or Voting Interest in any manner other than in accordance with this Agreement;
- (iv) The approval of any merger, consolidation, conversion, share or interest exchange, or other transaction authorized by or subject to the provisions of Chapter Ten of the Texas Business Organizations Code;
- (v) The authorization of any transaction, agreement, or action on behalf of the Company that is unrelated to its purpose as set forth in Certificate of Formation, if any such purposes is specified or that otherwise contravenes this agreement;

- (vi) The authorization of any act that would make it impossible to carry on the ordinary business of the Company, included any sale, lease, or other disposition of all or substantially all of the assets of the Company;
- (vii) Knowingly do any act that would subject any Member to liability for the obligations of the Company in any jurisdiction;
- (viii) The amendment of this Agreement.

4.2 Officers. The Members are authorized to appoint one or more officers from time to time. The officers will have the titles, the authority, exercise the powers, and perform the duties that the Members determine from time to time. Only Professional Individuals or Professional Entities may serve as officers. Each officer will continue to perform and hold office until such time as (a) the officer's successor is chosen and appointed by the Members; or (b) the officer is dismissed or terminated by the Members, which termination will be subject to applicable law and, if an effective employment agreement exists between the officer and the Company, the employment agreement. Subject to applicable law and the employment agreement (if any), each officer will serve at the direction of Members, and may be terminated, at any time and for any reason, by the Members.

ARTICLE 5: ACCOUNTS AND ACCOUNTING

5.1 Accounts. The Company must maintain complete accounting records of the Company's business, including a full and accurate record of each Company transaction. The records must be kept at the Company's principal executive office and must be open to inspection and copying by Members during normal business hours upon reasonable notice by the Members wishing to inspect or copy the records or their authorized representatives, for purposes reasonably related to the Membership Interest of such Members. The costs of inspection and copying will be borne by the respective Member.

5.2 Records. The Members will keep or cause the Company to keep the following business records:

- (i) An up to date list of the Members, each of their respective full legal names, last known business or residence address, Capital Contributions, the date each Member became a member, the amount and terms of any agreed upon future Capital Contributions, and Ownership Interests, and Voting Interests;
- (ii) A copy of the Company's federal, state, and local tax information and income tax returns and reports, if any, for the six most recent taxable years;

- (iii) Copies of powers of attorneys;
- (iv) A copy of the Certificate of Formation of the Company, as may be amended from time to time ("Certificate of Formation"); and
- (v) An original signed copy, which may include counterpart signatures, of this Agreement, and any amendments to this Agreement, signed by all then-current Members.

5.3 Income Tax Returns. Within 45 days after the end of each taxable year, the Company will use its best efforts to send each of the Members all information necessary for the Members to complete their federal and state tax information, returns, and reports and a copy of the Company's federal, state, and local tax information or income tax returns and reports for such year.

5.4 Subchapter S Election. The Company may, upon unanimous consent of the Members, elect to be treated for income tax purposes as an S Corporation. This designation may be changed as permitted under the Internal Revenue Code Section 1362(d) and applicable Regulations.

5.5 Tax Matters Member. Anytime the Company is required to designate or select a tax matters partner or partnership representative, pursuant to Section 6223 of the Internal Revenue Code and any regulations issued by the Internal Revenue Service, the Members must designate one of the Members as the tax matters partner or partnership representative of the Company and keep such designation in effect at all times.

5.6 Banking. All funds of the Company must be deposited in one or more bank accounts in the name of the Company with one or more recognized financial institutions. The Members are authorized to establish such accounts and complete, sign, and deliver any banking resolutions reasonably required by the respective financial institutions in order to establish an account.

ARTICLE 6: MEMBERSHIP VOTING AND MEETINGS

6.1 Members and Voting Rights. Only Professional Individuals and Professional Entities may be Members of the Company. The Members have the right and power to vote on all matters with respect to which the Certificate of Formation, this Agreement, or the Texas Business Organizations Code requires or permits. Unless otherwise stated in this Agreement (for example, in Section 4.1(c)) or required under the Texas Business Organizations Code, the vote of the majority of the Members present at a meeting in which a quorum is present is required to approve or carry out an action of the Members. A quorum will consist of a majority of the Members entitled to vote on the action, represented in person or by proxy.

6.2 Meetings of Members. Annual, regular, or special meetings of the Members are not required but may be held at such time and place as the Members deem necessary or desirable for the reasonable management of the Company. Special meetings of the Members may be called at the request of the senior officer of the Company or Members holding at least ten percent (10%) of the Percentage Interest of the Company. A written notice setting forth the date, time, and location of a meeting must be sent at least ten (10) days but no more than sixty (60) days before the date of the meeting to each Member entitled to vote at the meeting. The purpose or purposes for which a special meeting is called must be stated in the notice of the meeting. A Member may waive notice of a meeting by sending a signed waiver to the Company's principal executive office or as otherwise provided in the Texas Business Organizations Code. In any instance in which the approval of the Members is required under this Agreement, such approval may be obtained in any manner permitted by the Texas Business Organizations Code, including by conference call or similar communications equipment. Any action that could be taken at a meeting may be approved by a consent in writing that describes the action to be taken and is signed by Members holding the minimum number of votes that would be necessary to take the action at a meeting at which all Members entitled to vote on the action were present and voted. If any action is taken without a meeting and without unanimous written consent of the Members, notice of such action must be sent to each Member that did not consent to the action.

ARTICLE 7: WITHDRAWAL AND TRANSFERS OF MEMBERSHIP INTERESTS

7.1 Withdrawal. Members may withdraw from the Company prior to the dissolution and winding up of the Company by: (a) transferring or assigning all of their Membership Interests; (b) providing written notice to the Company as to the withdrawal; and (c) providing the Company with the written terms of any transfer or assignment. The transfer or assignment may not take effect, absent written consent of the remaining Members holding a majority of the Percentage Interest not subject to transfer, until at least 30 days after the written notice and written terms are provided to the Company. Subject to the provisions of Article 3, a Member that withdraws pursuant to this Section 7.1 will be entitled to a distribution from the Company in an amount equal to such Member's Capital Account.

7.2 Withdrawal by Death. The death of a Member shall be considered a Withdrawal, generally subject to the other provisions of Article 7. The 30 Day period referred to in Section 7.1 shall begin upon the company being notified of the death.

7.3 Restrictions on Transfer; Admission of Transferee. The Person acquiring Membership Interest pursuant to Section 7.1 will not become a Member of the Company, but rather will only be an Economic-Only Interest Owner, unless that Person is admitted as a Member by written consent of the Members holding a majority of Percentage Interest as set forth under Section 2.3(A).

7.4 Professional Restrictions. If a Member or officer of the Company ceases to be a Professional Individual or Professional Entity, the Person must sever all employment

with the Company and immediately terminate all financial interest in the Company. The Company will purchase or cause to be purchased from the Person all Membership Interests owned by the Person in the Company, at a price and on terms as may be provided in this Agreement, or any applicable agreement among the Members and the Company. If the Person is the sole Member of the Company, the Person may continue to act as Member or officer only for the purposes of winding up the affairs of the Company, including selling the assets of or outstanding Membership Interests in the Company, but not including rendering professional service.

If a Person who is not a Professional Individual or a Professional Entity succeeds the Membership Interest of a Member, the Person holding such Membership Interest must immediately terminate all financial interest in the Company, and the Company will purchase or cause to be purchased from the Person all Membership Interests owned by the Person in the Company, at a price and on terms as may be provided in this Agreement, or any applicable agreement among the Members and the Company. If the Person succeeded to all of the Membership Interests in the Company, the Person may continue to act as Member or officer only for the purposes of winding up the affairs of the Company, including selling the assets of or the outstanding Membership Interests in the Company, but not including rendering professional service.

7.5 Right of First Refusal. The Company has the right of first refusal with regard to the transfer or assignment of any Membership Interests, including by way of death, and has the 30 day period set forth in Section 7.1 or Section 7.2 to give formal written notice if it is exercising that right. If the Company exercises its right of first refusal, it must either match the offer being made to the withdrawing or transferring Member as set forth in the notice provided by that member in Section 7.1 or purchase the Membership Interest at the internal fair market value set forth in Section 7.5 or at a value the Company and the withdrawing or transferring Member otherwise agree on. Unless the remaining Members of the Company unanimously agree otherwise, the Membership Interests purchased from the withdrawing or transferring Member shall be apportioned to the remaining Members in direction proportion to their comparative Units of ownership. (In other words, if there are a total of 100 ownership Units, with the four members owning 40, 30, 20, and 10 Units, respectively, and the Member owning 20 units withdraws, and the Company exercises its right of first refusal, the remaining three members would end up owning 50, 37.5, and 12.5 Units, respectively.)

7.6 Valuation of Company or an Interest in Company.

A. Valuation Process. Should the Company, or an interest in the Company, need to be valued, a neutral, objective certified public accountant ("CPA") shall be hired by the Company to perform a valuation engagement. The selection of said CPA will be made by unanimous vote of the Members, but if the Members cannot agree, then each Member will select a CPA, and each of those CPAs will each perform a valuation engagement, the Company must allow each CPA access to the information each CPA needs in order to properly perform a valuation engagement.

B. Valuation Engagement and Valuation Standard. The CPA(s) must use valuation and ethics standards consistent with those approved by the American Institute of Certified Public Accountants ("AICPA"). If multiple CPAs are providing valuations, then they shall all attempt to agree on the methodology to be used, such as those set forth by the AICPA, and use that methodology. Written valuation reports and conclusions of value shall be provided within 90 days of the event triggering the decision to have a valuation engagement performed. All valuation reports and conclusions of values shall identify the valuation method used.

C. Final Determination as to Fair Market Value. The conclusion of value, or average of the conclusions of value shall be called the "fair market value".

D. Final Determination as to Internal Fair Market Value. 90% of the conclusion of value, or average of the conclusions of value, shall be called the "internal fair market value".

ARTICLE 8: WINDING UP

8.1 Events Requirement Winding Up. The Company will be dissolved upon the first to occur of the following events:

- (i) The vote of the Members holding at least a majority of the Voting Interest of the Company to wind up the Company;
- (ii) Entry of a decree of judicial order to wind up the Company under Chapter 11 of the Texas Business Organizations Code;
- (iii) At any time that there are no Members, unless and provided that the Company is not otherwise required to be dissolved and wound up, within 90 days after the occurrence of the event that terminated the continued membership of the last remaining Member, the legal representative, or successor, of the last remaining Member agrees in writing to continue the Company and (i) to become a Member; or (ii) to the extent that the last remaining Member assigned its interest in the Company, to cause the Member's assignee to become a Member of the Company, effective as of the occurrence of the event that terminated the continued membership of the last remaining Member;
- (iv) The sale or transfer of all or substantially all of the Company's assets;
- (v) A merger or consolidation of the Company with one or more entities in which the Company is not the surviving entity.

8.2 No Automatic Dissolution Upon Certain Events. Unless otherwise set forth in this Agreement or required by applicable law, the death, incapacity, disassociation,

bankruptcy, or withdrawal of a Member will not automatically cause a dissolution of the Company.

8.3 Winding Up Affairs and Distributions of Assets.

A. If an event requiring the wind up of the Company occurs, a Person designated for this purpose by a majority of the Members (the Person so designated being called the "Liquidating Agent"), as soon as practicable will wind up the affairs of the Company and sell and/or distribute the assets of the Company. The Liquidating Agent will have all of the rights and powers with respect to the assets and liabilities of the Company in connection with the liquidation and termination of the Company that the Managers would have with respect to the assets and liabilities of the Company during the term of the Company, and the Liquidating Agent is expressly authorized and empowered to execute any and all documents necessary or desirable to effectuate the liquidation and termination of the Company and the transfer of any assets. The Liquidating Agent must apply and distribute the proceeds of the sale or liquidation of the assets and property of the Company in the following order of priority, unless otherwise required by nonwaivable provisions of applicable law:

- (i) To pay (or to make provision for the payment of) all creditors of the Company (including Members who are creditors of the Company), in the order of priority provided by law or otherwise, in satisfaction of all debts, liabilities or obligations of the Company due its creditors;
- (ii) After the payment (or the provision for payment) of all debts, liabilities and obligations of the Company in accordance with clause (i) above, any balance remaining will be distributed to the Members having positive capital accounts in relative proportion to those capital accounts, or, if there is only one (1) Member, to the Member.

B. The Liquidating Agent will have sole discretion to determine whether to liquidate all or any portion of the assets and property of the Company and the consideration to be received for that property.

C. Except as required by nonwaivable provisions of the Texas Business Organizations Code, no Member will have any obligation at any time to contribute any funds to replenish any negative balance in its capital account.

8.4 Termination. On compliance with the distribution plan described in Section 8.3, the Liquidating Agent must execute, acknowledge and cause to be filed a certificate of termination with the Texas Secretary of State, at which time the Company will cease to exist as a limited liability company.

ARTICLE 9: INDEMNIFICATION

9.1 Indemnification. The Company has the power to defend, indemnify, and hold harmless any Person who was or is a party, or who is threatened to be made a party, to any Proceeding (as that term is defined below) by reason of the fact that such Person was or is a Member, officer, employee, representative, or other agent of the Company, or was or is serving at the request of the Company as a director, Governor, officer, employee, representative or other agent of another limited liability company, corporation, partnership, joint venture, trust, or other enterprise (each such Person is referred to as a "Company Agent"), against Expenses (as that term is defined below), judgments, fines, settlements, and other amounts (collectively, "Damages") to the maximum extent now or hereafter permitted under Texas law. "Proceeding," as used in this Article 9, means any threatened, pending, or completed action, proceeding, individual claim or matter within a proceeding, whether civil, criminal, administrative, or investigative. "Expenses," as used in this Article 9, includes, without limitation, court costs, reasonable attorney and expert fees, and any expenses incurred relating to establishing a right to indemnification, if any, under this Article 9.

9.2 Mandatory. The Company must defend, indemnify and hold harmless a Company Agent in connection with a Proceeding in which such Company Agent is involved if, and to the extent, Texas law requires that a limited liability company indemnify a Company Agent in connection with a Proceeding.

9.3 Expenses Paid by the Company Prior to Final Disposition. Expenses of each Company Agent indemnified or held harmless under this Agreement that are actually and reasonably incurred in connection with the defense or settlement of a Proceeding may be paid by the Company in advance of the final disposition of a Proceeding if authorized by a vote of the Members that are not seeking indemnification holding a majority of the Voting Interests (excluding the Voting Interest of the Company Agent seeking indemnification). Before the Company makes any such payment of Expenses, the Company Agent seeking indemnification must deliver a written affirmation by such Company Agent of such Company Agent's good faith belief that the Company Agent has met the standard of conduct necessary for indemnification and a written undertaking by Company Agent to the Company stating that such Company Agent will repay the applicable Expenses to the Company unless it is ultimately determined that the Company Agent is entitled or required to be indemnified and held harmless by the Company (as set forth in Sections 9.1 or 9.2 above or as otherwise required by applicable law).

ARTICLE 10: GENERAL PROVISIONS

10.1 Notice. (a) Any notices (including requests, demands, or other communications) to be sent by one party to another party in connection with this Agreement must be in writing and delivered personally, by reputable overnight courier, or by certified mail (or equivalent service offered by the postal service from time to time)

to the following addresses or as otherwise notified in accordance with this Section: (i) if to the Company, notices must be sent to the Company's principal executive office; and (ii) if to a Member, notices must be sent to the Member's last known address for notice on record. (b) Any party to this Agreement may change its notice address by sending written notice of such change to the Company in the manner specified above. Notice will be deemed to have been duly given as follows: (i) upon delivery, if delivered personally or by reputable overnight carrier or (ii) five days after the date of posting if sent by certified mail.

10.2 Entire Agreement; Amendment. This Agreement along with the Certificate of Formation (together, the "Organizational Documents"), constitute the entire agreement among the Members and replace and supersede all prior written and oral understandings and agreements with respect to the subject matter of this Agreement, except as otherwise required by the Texas Business Organizations Code. There are no representations, agreements, arrangements, or undertakings, oral or written, between or among the Members relating to the subject matter of this Agreement that are not fully expressed in the Organizational Documents. This Agreement may not be modified or amended in any respect, except in a writing signed by all of the Members, except as otherwise required or permitted by the Texas Business Organizations Code.

10.3 Governing Law; Severability. This Agreement will be construed and enforced in accordance with the laws of the state of Texas. If any provision of this Agreement is held to be unenforceable by a court of competent jurisdiction for any reason whatsoever, (i) the validity, legality, and enforceability of the remaining provisions of this Agreement (including without limitation, all portions of any provisions containing any such unenforceable provision that are not themselves unenforceable) will not in any way be affected or impaired thereby, and (ii) to the fullest extent possible, the unenforceable provision will be deemed modified and replaced by a provision that approximates the intent and economic effect of the unenforceable provision and the Agreement will be deemed amended accordingly.

10.4 Further Action. Each Member agrees to perform all further acts and execute, acknowledge, and deliver any documents which may be reasonably necessary, appropriate, or desirable to carry out the provisions of this Agreement.

10.5 No Third Party Beneficiary. This Agreement is made solely for the benefit of the parties to this Agreement and their respective permitted successors and assigns, and no other Person or entity will have or acquire any right by virtue of this Agreement. This Agreement will be binding on and inure to the benefit of the parties and their heirs, personal representatives, and permitted successors and assigns.

10.6 Incorporation by Reference. The recitals and each appendix, exhibit, schedule, and other document attached to or referred to in this Agreement are hereby incorporated into this Agreement by reference.

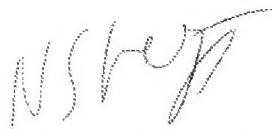
10.7 **Counterparts.** This Agreement may be executed in any number of counterparts with the same effect as if all of the Members signed the same copy. All counterparts will be construed together and will constitute one agreement.

[Remainder Intentionally Left Blank.]

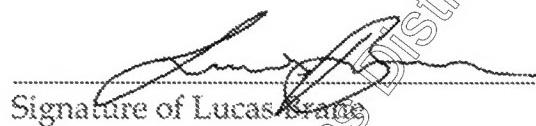
Unofficial Copy Office of Marilyn Burgess District Clerk

IN WITNESS WHEREOF, the parties have executed or caused to be executed this Company Agreement and do each hereby represent and warrant that their respective signatory, whose signature appears below, has been and is, on the date of this Agreement, duly authorized to execute this Agreement.

Dated: 10/27/23



Signature of Nicolas Heft



Signature of Lucas Brana

Unofficial Copy Office of Marilyn Burgess District Clerk

EXHIBIT A
MEMBERS

The Members of the Company and their respective addresses, Capital Contributions, and Ownership Interests are set forth below. The Members agree to keep this Exhibit A current and updated in accordance with the terms of this Agreement, including, but not limited to, Sections 2.1, 2.3, 2.4, 7.1, 7.2, and 10.1.

Members	Capital Contribution	Percentage Interest
Nicolas Heft 11910 Maybrook Ct Pearland, Texas 77584	50%
Lucas Brane 11910 Maybrook Ct Pearland, Texas 77584	50%

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Debbie Kennedy on behalf of Randall Hawes

Bar No. 796725

debbie.kennedy@chamberlainlaw.com

Envelope ID: 91231548

Filing Code Description: Petition

Filing Description: Plaintiff's Original Petition and Request for Expedited
Judicial Dissolution

Status as of 8/23/2024 8:03 AM CST

Associated Case Party: Nicolas Heft

Name	BarNumber	Email	TimestampSubmitted	Status
Michael Feibus		michael.feibus@chamberlainlaw.com	8/22/2024 4:32:41 PM	SENT
Randall Hawes		kyle.hawes@chamberlainlaw.com	8/22/2024 4:32:41 PM	SENT
Rosa Reyes		rosa.reyes@chamberlainlaw.com	8/22/2024 4:32:41 PM	SENT

Associated Case Party: Lucas Brane

Name	BarNumber	Email	TimestampSubmitted	Status
George Gibson	793802	ggibson@nathansommers.com	8/22/2024 4:32:41 PM	SENT